Saskatchewan Human Rights Commission
1986 Annual Report

The Saskatchewan Human Rights Code states:

3. The objects of this Act are:

   (a) to promote recognition of the inherent dignity and the equal inalienable rights of all members of the human family; and

   (b) to further public policy in Saskatchewan that every person is free and equal in dignity and rights and to discourage and eliminate discrimination.

FORTY YEARS OF HUMAN RIGHTS IN SASKATCHEWAN

SASKATCHEWAN

HUMAN RIGHTS COMMISSION

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March 31, 1987.

The Honourable Bob Andrews,
Room 355,
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Regina, Saskatchewan.
S4S OB3

Dear Mr. Andrews:

It is with pleasure that I submit the 1986 annual report of the Saskatchewan Human Rights Commission.

The Commission would like to take this opportunity to recognize the 40th anniversary of The Saskatchewan Bill of Rights and to pay tribute to those who have advanced the cause of human rights in Saskatchewan. Upon reviewing the changes that have taken place in the area of human rights over the past 40 years, it is clear that significant progress has been made. The Commission believes that similar advances will continue to be made in the future.

As reflected in the report, the major areas of concern for the Commission in 1986 were education equity, affirmative action, and the investigation, settlement and adjudication of complaints.

In 1985, the Commission studied the problems young people of Indian ancestry face in the education system, and released a report, titled "Education Equity", which delineated the nature of the situation and set out proposals for change. It was in 1986 that the Commission proceeded to act on those proposals. By year's end, 20 schools had indicated a willingness to work with the Commission to develop education equity plans designed to make their schools more sensitive to the needs of native students. It is anticipated that the initiatives taken by the School Boards will dramatically improve educational opportunities for young people of Indian ancestry in the province.

A continuing emphasis was also placed on the Commission's on-going affirmative action programs. In 1986 the Commission received applications for affirmative action programs from the Cities of Regina and Saskatoon. In addition, the Wascana Institute of Applied Arts and Sciences received approval for the implementation of an affirmative action program intended to increase the enrollment of students of Indian ancestry. This brings the number of affirmative action employers and institutions in the province to 19. The Commission also developed new criteria for the approval of affirmative action plans, in consultation with employers, institutions, and organizations representing women, people with disabilities, and people of Indian ancestry.

The Commission also continues to emphasize the need for amendments to The Saskatchewan Human Rights Code which would bring it into conformity with Canada's Charter of Rights and Freedoms. The Commission is hopeful the necessary legislative changes will be made in 1987.

The enclosed report is respectfully submitted and I would ask that you transmit it to the legislative assembly fo Saskatchewan.

Yours truly,

Ronald J. Kruzeniski, Q.C.,
Chief Commissioner.

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INDEX

Forty Years of Human Rights in Saskatchewan 1

The Mandate of the Commission 5

The Structure of the Commission 5

Enforcement Procedures 6

Investigations Division 6

Nature and Categories of Complaints 6

Nature and Disposition of Probable Cause Complaints 85

Settlements 8

Boards of Inquiry 9

Court Decisions 11

Public and Special Programs 13

List of Exemptions 14

Special Programs — Affirmative Action 17

Accessibility Standards 19

List of Saskatchewan Human Rights Commission Staff 20

Tables of Statistics 21

List of Human Rights Commission Publications 24

Forty Years of Human Rights In Saskatchewan

It was 40 years ago that *The Saskatchewan Bill of Rights* came into being. It was the first comprehensive human rights legislation to be enacted in Canada. The Saskatchewan Human Rights Commission joins others in celebration of that event and pays tribute to those whose respect for human rights was evident in the legislation that they passed.

Most of the major developments in the field of human rights have taken place over the past 40 years. Though we can trace the evolution of western thinking on human rights questions through centuries of history, it is only recently that there has been substantial movement by governments to enact laws protecting human rights.

For example, in Canada in the 1940's, victims of racial discrimination had no law they could look to for assistance. A case which reached the Supreme Court of Canada in that year is illustrative of that point. A black man was refused service in a tavern at the Montreal Forum because the tavern area was reserved "for whites only". He sued the management for $200 in damages for "humiliation". The Supreme Court dismissed his complaint, saying: "....the general principle of the law in Quebec is that of complete freedom of commerce. Any merchant is free to deal as he may choose with an individual member of the public." *(Christie v. York Corporation* (1940) S.C.R. 139)

By the end of the Second World War, although only five years had passed, there was a change in attitudes towards human rights. It was the horrific events of the Second World War that generated a new interest in the field of human rights. The mass killing of six million Jews and the deaths of hundreds of thousands of Poles, Russians, Austrians, Ukrainians, Czechoslovakians, Gypsies, homosexuals, and persons with mental and physical disabilities, shocked and horrified people around the world. It was clear steps had to be taken to protect human rights, both internationally and in Canada.

In 1945, 51 countries joined together to form the United Nations and pledged to take "joint and separate action" to promote "....universal respect for and observance of human rights and fundamental freedoms for all without distinction as to race, sex, language or religion".

It was followed by the Declaration of Human Rights in 1948, and this in turn was followed by the *International Covenant on Civil and Political Rights* and the *International Covenant on Economic, Social and Cultural Rights* in 1966. These covenants, to which Canada is a signatory, set international standards for the protection of human rights.

Nations which have ratified these covenants, Canada among them, are obliged to report on their implementation. The United Nations, in turn, monitors these nations to see that they have complied with their obligations in the area of human rights.

These United Nations documents promoted a rapid development of human rights legislation in Canada. In 1944, Ontario passed the *Racial Discrimination Act* which prohibited the publication, display, or the broadcast of any material that indicated an intent to discriminate on the basis of race or creed. The Act was designed to combat the once prevalent "whites only" signs which were displayed in public places.

Saskatchewan passed its more extensive legislation — *The Bill of Rights* — in 1947. It dealt with fundamental freedoms, guaranteeing freedom of religion, freedom of speech and of the press, freedom of assembly and association, freedom from arbitrary arrest or detention, and the right to vote. It also prohibited discrimination on the basis of race, creed, religion, colour, or ethnic or national origin.

While the *Bill of Rights* was an important step in the protection of human rights in Canada, it did not provide for an enforcement mechanism. Individuals who believed their rights had been violated under the Act had to take the matter to court by way of private prosecution. The fine for violating the statute was not less than $25 and not more than $50. It is not surprising that there were few attempts to enforce the anti-discrimination provisions.

In the 1950's many provinces enacted fair employment and fair accommodation legislation. Ontario was the first to act and its laws established the basic pattern used today to identify and remedy discrimination. Additional grounds of discrimination and new pieces of legislation dealing with human rights continued to be developed in the 50's and 60's.

It was in the 60's and 70's that Human Rights Commissions were established across Canada. A comprehensive procedure was established for

investigation, settlement, and if necessary, the formation of boards of inquiry or Commissions to determine complaints and to decide what remedies were necessary to compensate the victim.

This change in procedure was important because it meant commissions now had the authority to receive and investigate complaints and to carry those complaints forward through the process of adjudication. In addition, most Human Rights Commissions provide, as part of their mandate, public education in the area of human rights.

Saskatchewan's Human Rights Code was enacted in 1979. It consolidated *The Saskatchewan Bill of Rights, The Fair Accommodation Practices Act, The Fair Employment Practices Act, The Saskatchewan Human Rights Commission Act* and *The Blind Persons Act* into one piece of legislation.

The objects of the *Code* are:

a) to promote recognition of the inherent dignity and equal and inalienable rights of all members of the human family; and

b) to further public policy in Saskatchewan that every person is free and equal in dignity and rights and to discourage and eliminate discrimination.

The Saskatchewan Human Rights Code takes precedence over all other Acts of the province of Saskatchewan, except for statutes specifically declared by the legislature to be exempt from the *Code*. This means that human rights are the supreme laws in the province.

In 1982 Canada took one more step to promote human rights with the adoption of the *Charter of Rights and Freedoms*. The *Charter* defines fundamental freedoms, democratic rights, mobility rights, legal rights, equality rights, minority language educational rights, and contains an enforcement section. As a constitutional document, the *Charter* applies to the Parliament and government of Canada, and the legislature and government of the provinces. This means that the provincial and federal governments of Canada must ensure that their laws and policies do not breach the provisions of the *Charter,* subject to some exceptions.

Recent Developments

Advances continue to be made in the field of human rights. One of the most significant of recent developments was the Supreme Court of Canada's decision in the case of the *Ontario Human Rights Commission and Theresa O'Malley v. Simpsons-Sears Ltd.,* heard in December, 1985.

The issue central to that case — whether discrimination that is not intended contravenes human rights legislation — was considered so important that when the case was heard by the Supreme Court, a number of human rights agencies, the Saskatchewan Human Rights Commission among them, presented arguments as intervenors.

O'Malley was a salesperson at a Simpson-Sears store in Ontario. A condition of employment was that full-time salesclerks work on Friday evening on a rotating basis and on two Saturdays out of three. When O'Malley became a member of the Seventh-Day Adventist Church, which requires that the Sabbath must be strictly kept, she was no longer able to work Friday evening or Saturday. In the Seventh-Day Adventist Church, the Sabbath extends from sundown Friday to sundown Saturday. Because O'Malley was not able to work Friday evening or Saturday, she was asked by management to switch to a part-time position.

O'Malley subsequently filed a complaint with the Ontario Human Rights Commission and the matter went to a board of inquiry. That decision was appealed to the Ontario Divisional Court and to the Ontario Court of Appeal. Both courts found that there could be no breach of the anti-discrimination provisions of the *Ontario Human Rights Code* unless the employer *intended* to discriminate on one of the prohibited grounds. The Court of Appeal decision was then appealed to the Supreme Court of Canada.

In a unanimous judgment, the Supreme Court reversed the decision of the Court of Appeal and found that O'Malley had been discriminated against because of her creed. The court found that it was not necessary to prove discrimination was intentional to find that a violation of human rights legislation had occurred.

An employment rule which is on its face neutral and which is adopted for genuine business reasons, and applied equally to all employees may nonetheless have a discriminatory effect. It is this result or effect which is instrumental in determining whether discrimination has taken place.

The court also held that when an employment rule has a discriminatory effect, the employer has

a duty to take reasonable steps to accommodate the employee, provided accommodation does not create undue hardship for the employer. The onus is on the employer to show undue hardship.

The Supreme Court decision was welcomed by human rights groups across the country. Much of the discrimination that is present in our society does not result from intentional acts of bigotry, but because of a failure to recognize the different needs of minority groups. The O'Malley decision will make it easier for the needs of minorities to be addressed.

Commission Initiatives

Education Equity

Education Equity, the Commission's initiative on Indian/Native education in Saskatchewan, was the major focus in the area of affirmative action in 1986.

In a 1985 report entitled *Education Equity* the Commission asked boards of education, with at least five percent enrollment of students of Indian/Native ancestry, to develop plans which seek to reduce the drop-out rate of students of Indian/Native ancestry. The plans are to be comprehensive, addressing the school system as a whole. Each plan should address the following areas:

1. An affirmative action hiring plan to increase the numbers of teachers of Indian/Native ancestry;

2. A review of school policies and procedures to determine their impact on persons of Indian/Native ancestry;

3. A plan to provide cross-cultural training to all teachers;

4. A review of curriculum to include Indian/Native content and;

5. A plan to increase the involvement of parents of Indian/Native ancestry in the school sytem.

When announcing this program in September, 1985 the Commission asked boards to voluntarily submit such plans to it for approval by December 1, 1986. After that date the Commission indicated that it would be willing to consider applications from community groups asking the Commission to order the adoption of such plans by boards of education.

By December 31, 1986 approximately twenty boards had either submitted plans to the Commission or indicated that they were in the process of developing a plan.

In 1986 three boards chose to request approval for interim plans that focussed on the recruitment of teachers of native ancestry. Those boards were Saskatoon School Division No. 13, Wilkie School Division No. 59 and Indian Head School Division No. 19. The Commission granted approval for all three programs on the condition that full programs would be developed and submitted to the Commission.

The three interim plans approved by the Commission allow the boards to actively recruit teachers of Indian/Native ancestry. That active recruitment includes an outreach program to Indian/Native teacher training programs and the use of job advertisements which encourage applications from teachers of Indian/Native ancestry.

Beginning in late 1986 and continuing into 1987 the Commission will be working with boards of education to assist them in the development of their education equity plans. In 1987 the Commission will be looking forward to the approval of plans covering the range of activities contained in *Education Equity*.

Approval of Affirmative Action Programs

City of Saskatoon and Regina

In 1986 public hearings were held to review applications for the approval of affirmative action plans submitted by the City of Saskatoon and the City of Regina.

The plan of the City of Saskatoon was reviewed on November 14, 1986 at hearings in Saskatoon. At hearings in Regina on December 18 the City of Regina presented its plan to the Commission. A number of community organizations were present at the hearings to provide comments on the plans.

Both cities have created plans intended to address the under-representation of all three target groups — persons of Indian/Native ancestry, persons with physical disabilities and women. For the City of Regina its application expands upon an interim program, approved in 1982, which was limited to persons of Indian/Native ancestry.

In their plans both cities have carried out an

analysis of their respective workforces indicating where there is under-representation of each of the three target groups. The plans also contain lists of special measures that the two cities will adopt to assist in the achievement of the objective of increasing representation of the three target groups.

The special measures included in the plans are based upon a breakdown of the employment systems of the cities. Those measures are intended to eliminate any discriminatory barriers indentified. Other special measures are designed to support members of target groups by encouraging them to apply for positions with the cities and remain with them after hiring. The plans in each city were developed and will be monitored by joint labour-management committees.

As major public sector employers in Saskatchewan both the City of Saskatoon and the City of Regina have taken actions that should be an example to other employers, both public and private. In particular these plans are showing the way for other municipalities.

Wascana Institute of Applied Arts and Sciences

On April 4, 1986 the Wascana Institute of Applied Arts and Sciences received approval for the implementation of an affirmative action program. That program is intended to increase the enrollment of students of Indian ancestry at the Wascana Institute.

The Institute was concerned that the number of people of Indian ancestry in its program was below the proportion of the population which is of native ancestry. The Institute felt that many native people did not feel that training programs were accessible to them. This program will provide that encouragement.

The affirmative action plan of the Institute makes training places available to students of Indian ancestry in 20 competency-based learning programs. In addition, Wascana will be providing counselling services to students of Indian ancestry to assist them in entering and remaining in school.

This affirmative action program replaces an exemption granted in 1985. Because of the nature of the particular program it was felt that it should be considered an affirmative action program rather than an exemption.

In addition to the initiatives related to students of Indian ancestry the Institute is committed to developing, by 1989, an affirmative action policy that will address the educational needs of people with physical disabilities and the needs of women wanting to enter non-traditional trades.

Saskatchewan Public Service Commission

The Public Service Commission is in the process of developing an affirmative action plan. It has been submitted to the Human Rights Commission for approval, and will be the subject of public hearings in 1987.

Revised Affirmative Action Criteria Adopted

In 1986, the Saskatchewan Human Rights Commission developed new criteria for the approval of affirmative action plans. Those criteria are revisions of existing criteria, originally adopted in 1980. Changes to the criteria were implemented to reflect experience gained in the last six years. In particular, the revised criteria clearly set out what the Commission expects will be included in any affirmative action plan.

The approval criteria contain three major requirements:

1. An analysis of an organization to determine where the designated groups covered by a plan are underrepresented;

2. The establishment of goals and timetables to increase the representation or participation of designated groups in an organization; and

3. The development of special measures which will lead to the achievement of a plan's objectives.

   Special measures are of two types. First, there are measures which seek to eliminate the discriminatory barriers faced by designated groups. Second, other special measures are designed to support the members of designated groups by encouraging and assisting them in participating in the organization sponsoring a plan.

Before giving approval to the criteria, the Commission circulated the proposed changes to sponsor organizations and groups representing women, people with disabilities and people of Indian ancestry. Comments were solicited from these groups.

Beginning in 1987, plans submitted to the Commission will be reviewed and approved according to the requirements of the new criteria.

Anticipated Developments

At the present time the Commission is awaiting amendments to *The Saskatchewan Human Rights Code* to bring it into conformity with Section 15 of *The Charter of Rights and Freedoms.*

Section 15 states:

> Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

As indicated, Section 15 makes particular reference to discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability. It also provides "open-ended" protection from discrimination. That is, in addition to those it makes particular reference to, other groups may apply to the courts for its protection.

Prohibitions against discrimination in Canadian society are also contained in federal and provincial legislation. In Saskatchewan, anti-discrimination legislation is found in *The Saskatchewan Human Rights Code.* It provides protection to 11 classes of persons, saying that no person shall be discriminated against because of race, creed, religion, colour, sex, marital status, physical disability, age, nationality, ancestry or place of origin.

The Commission believes it is unfortunate that the anti-discrimination protection offered by the *Code* is available to only a limited number of classes of persons. The fundamental principle behind human rights legislation is that certain basic rights in employment, education and housing, among others, ought to be possessed equally by all human beings. By the very act of limiting the scope of its protection, the *Code* is in conflict with this basic principle upon which human rights legislation rests.

Recognition is given to this principle in the *Charter of Rights and Freedoms* in Section 15, in the words "every individual is equal before and under the law ... without discrimination". The Saskatchewan Human Rights Commission continues to seek amendments to the *Code* so that it, too, will provide the same protection against discrimination.

The Mandate of the Commission

The Saskatchewan Human Rights Commission is a law enforcement agency responsible for the administration of *The Saskatchewan Human Rights Code.* Section 3 of the *Code* states that:

3. The objects of this Act are:
   (a) to promote recognition of the inherent dignity and the equal inalienable rights of all members of the human family; and
   (b) to further public policy in Saskatchewan that every person is free and equal in dignity and rights and to discourage and eliminate discrimination.

These objects are derived from the Universal Declaration of Human Rights adopted by the general assembly of the United Nations in 1948.

The *Code* gives the Saskatchewan Human Rights Commission the authority to investigate and settle complaints of discrimination, to carry complaints before boards of inquiry, to approve or order affirmative action programs, to grant exemptions from certain provisions of the *Code,* to make regulations subject to the approval of the Lieutenant Governor in Council, and to carry out research and educational programs which will advance the principles of equality and eliminate discriminatory practices.

The Structure of the Commission

The Saskatchewan Human Rights Code provides for the appointment of at least three persons to act as the Human Rights Commission. One of those persons is selected to sit as the Chief Commissioner and a second is designated as Deputy Chief Commissioner. Presently, there are five persons on the commission with members from Regina, Saskatoon, Prince Albert and Biggar. It is the responsibility of these individuals, at monthly meetings, to set policy, approve the settlement of complaints, review complaints referred to it by staff, direct boards of inquiry and consider applications for affirmative action programs and exemptions.

The Commission employs a professional staff to carry out the policies set by it and to carry on the daily work of promoting the principles contained in the *Code.*

Enforcement Procedures

(See Chart Next Page)

Any person who has reasonable grounds to believe that a provision of the *Code* has been violated may file a complaint with the Saskatchewan Human Rights Commission. In addition the Commission, or a third party, may initiate a complaint.

A preliminary investigation is undertaken to determine whether the complaint falls within the jurisdiction of *The Saskatchewan Human Rights Code* and if there are reasonable grounds to believe the *Code* has been violated.

If reasonable grounds can be shown the complaint will be accepted and a human rights officer appointed to investigate. The officer determines whether there is evidence to substantiate the allegation that a provision of the *Code* has been violated. A human rights officer has the legal authority to examine records and documents and to obtain information pertinent to the complaint.

Where the investigation does not substantiate the allegation and there is no probable cause to believe the *Code* has been violated, the complaint is formally dismissed and the complaint file is closed. However, where the evidence gathered through investigation supports the claim, an attempt to settle the complaint is made.

Settlement may take any form which is appropriate to the circumstances of the complainant and the respondent, the nature of the violation, and the opportunities lost or damages caused.

If a settlement cannot be effected the Human Rights Commission may direct that the Attorney General appoint an independent board of inquiry, composed of one or more persons, to hear and decide the matter. The board of inquiry hears the evidence of both the complainant and the respondent.

When a board is appointed the Commission has carriage of the complaint, and the Commission's legal counsel appears before the Board to present the Commission's evidence and argument. The complainant may rely on the Commission's representation, or retain their own legal counsel at their own expense.

If a board of inquiry finds that a contravention of the *Code* has occurred, it may order the person, company or organization who has contravened the *Code* to comply with legislation, to rectify any injury caused, to pay compensation for expenses or lost wages, or to pay damages for humiliation suffered. An order of a board of inquiry may be appealed on a question of law to the courts.

Investigations Division

In enforcing *The Saskatchewan Human Rights Code* it is the responsibility of the investigation division to investigate complaints of discrimination.

Complaints which the Commission investigates fall under two substantive sections of *The Saskatchewan Human Rights Code.* Part I of the *Code* contains the Bill of Rights, which protects the fundamental rights and freedoms of all residents of Saskatchewan. The Bill of Rights guarantees freedom of conscience, freedom of expression and association, freedom from arbitrary arrest and detention, and the right of all adult citizens to vote in provincial elections at least every five years. Part II of the *Code* protects the rights of all residents to equality. Discrimination is prohibited in the following areas: employment; employment applications and advertisements; rental of housing accommodation; purchase of property; provision of accommodation, services and facilities to the public; education; publication and display of signs and notices; membership in trade unions, professional societies and occupational associations; and contracts.

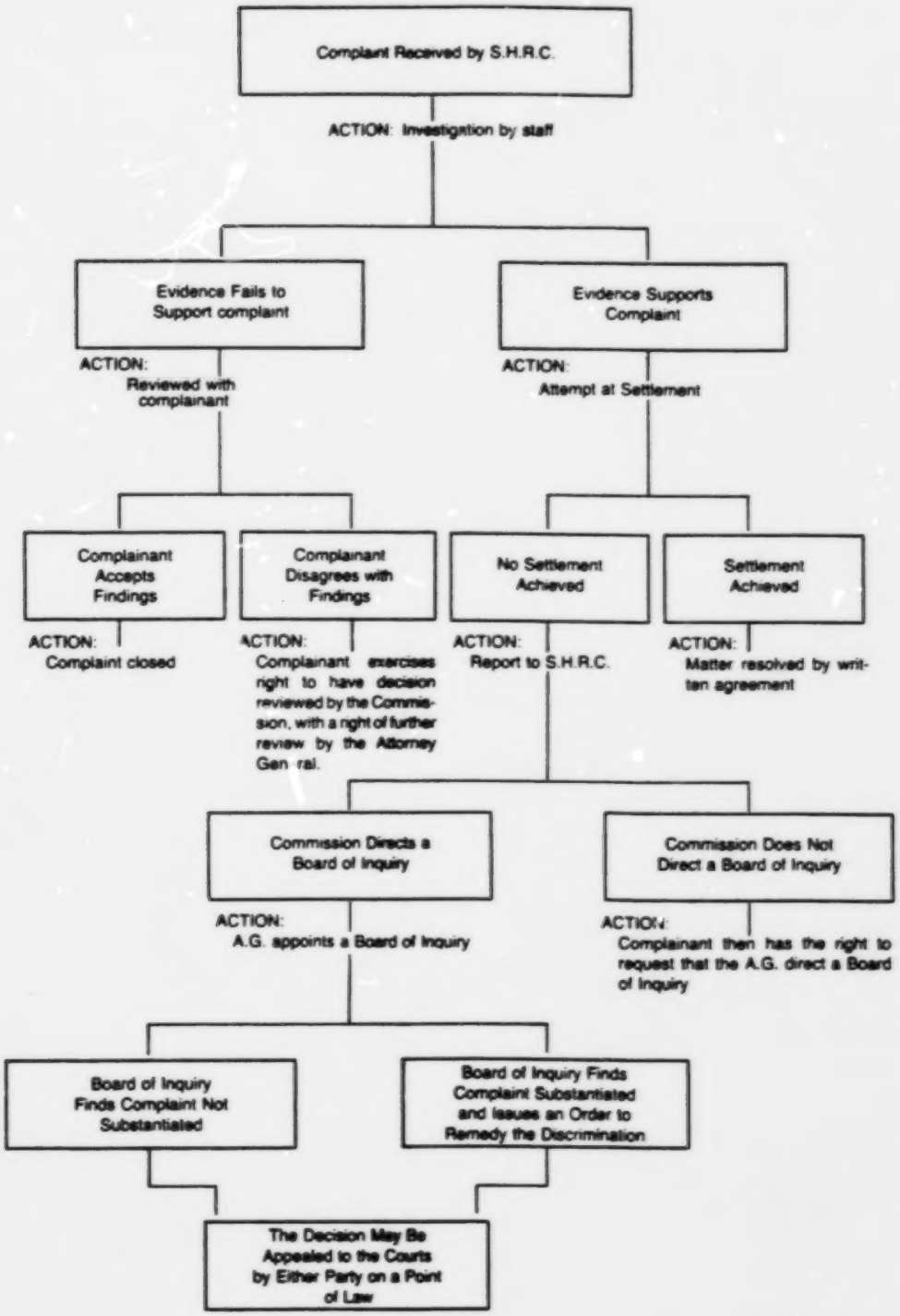
The prohibited grounds of discrimination are race, creed, religion, colour, sex, marital status, physical disability, age (18 to 64), nationality, ancestry or place of origin.

The staff of the investigations unit is responsible for receiving and investigating complaints of discrimination. It is the responsibility of the investigators to collect evidence related to complaints to determine whether probable cause exists to believe that a violation of the *Code* has occurred. Then, if the Director finds probable cause to support the complaint, the matter is referred to the Commission's lawyer for further action.

Nature and Categories of Complaints

The Saskatchewan Human Rights Commission

THE COMPLAINT PROCEDURE


Complaint Received by S.H.R.C.
ACTION: Investigation by staff
Evidence Fails to Support complaint
Evidence Supports Complaint
ACTION: Reviewed with complainant
ACTION: Attempt at Settlement
Complainant Accepts Findings
Complainant Disagrees with Findings
No Settlement Achieved
Settlement Achieved
ACTION: Complaint closed
ACTION: Complainant exercises right to have decision reviewed by the Commission, with a right of further review by the Attorney Gen ral.
ACTION: Report to S.H.R.C.
ACTION: Matter resolved by written agreement
Commission Directs a Board of Inquiry
Commission Does Not Direct a Board of Inquiry
ACTION: A.G. appoints a Board of Inquiry
ACTION: Complainant then has the right to request that the A.G. direct a Board of Inquiry
Board of Inquiry Finds Complaint Not Substantiated
Board of Inquiry Finds Complaint Substantiated and Issues an Order to Remedy the Discrimination
The Decision May Be Appealed to the Courts by Either Party on a Point of Law

investigated 363 complaints during 1986. This figure is very similar to the number of complaints dealt with by the Commission in 1985. In addition, 41 application forms were reviewed to determine their compliance with the *Code*.

Approximately 85 percent of all complaints filed with the Commission during 1986 fell into two major areas: employment (60.1 percent) and public services (25.0 percent). Other categories of importance were housing (5.5 percent), education (3.6 percent) and Bill of Rights (2.8 percent).

Discrimination on the basis of sex accounted for 33.3 percent of complaints investigated. Sexual harrassment, which is considered a form of sex discrimination, constituted 22.0 percent of all complaints. Other major grounds included race (21.5 percent) and physical disability (21.8 percent).

Complaints of racial discrimination are concentrated in the area of public services with 47 percent of all race complaints falling in this area. Allegations of sexual and physical disability discrimination tend to occur more frequently in the area of employment, with 91 percent of sex discrimination complaints and 69 percent of physical disability complaints falling in the employment area. The majority of complaints in the area of housing are related to race or marital status.

Nature and Disposition of Probable Cause Complaints

Probable cause complaints are those complaints where the Director finds that there is probable cause to believe that a violation of the *Code* has occurred because the evidence gathered during investigation supports an allegation of discrimination. These complaints then proceed to the next stage of the process, which is an attempt at settlement. This is done by the staff lawyer of The Saskatchewan Human Rights Commission. If settlement is achieved, then that settlement is referred to the Commission for final ratification.

If it is not possible to effect a settlement satisfactory to both parties, then the complaint is referred directly to the Commission. At the Commission's discretion it may direct the Attorney-General to appoint a board of inquiry to hear evidence on a complaint.

During 1986, the Director of the Commission made probable cause findings in 12 complaints. There were also 38 additional probable cause complaints carried over from 1985. Of these 50 complaints, 11 had settlements negotiated, 2 were withdrawn, 3 were dismissed by the Director, and a further 8 were referred directly to the Commission for the possible direction of a board of inquiry. In all of the 8 complaints referred to the Commission, boards of inquiry were directed. At the end of 1986 there were 26 probable cause complaints awaiting disposition.

Settlements

The mandate of The Saskatchewan Human Rights Commission with respect to complaints is twofold. According to the requirements of Section 28(1) of the *Code*, the Commission must inquire into complaints and endeavour to effect a settlement. Therefore, in each complaint where determination is made that probable cause exists to believe a violation of the *Code* has occurred, the Commission must attempt to effect settlement. The settlement of a complaint is designed to remedy the situation and put the complainant in the situation he/she would have been in had the discrimination not occurred.

Elimination of discriminary practices which violate *The Saskatchewan Human Rights Code* is both policy and the law of this province and settlements of complaints must reflect this. The following are examples of complaints which were settled during 1986.

Example #1 - Physical Disability

A restauranteur who denied a Saskatoon woman entry into his restaurant because she was accompanied by a seeing eye dog has agreed to pay her $400 in compensation. The settlement, negotiated by the staff of the Saskatchewan Human Rights Commission, was made without any admission of liability by the owner of the restaurant.

In a complaint made to the Human Rights Commission in March, 1986, the complainant alleged she was told by the manager that dogs were not allowed. The restaurant owner did not make a distinction between dogs that were pets and well-trained working dogs that guide people who are blind.

The Saskatchewan Human Rights Code protects the rights of people with seeing eye dogs to utilize services offered to the public.

Example #2 - Sex Discrimination

A Saskatchewan man, denied a job because of

alleged sex discrimination, agreed to a settlement in which he received $1,308 in compensation. The employer, without admitting liability, agreed to compensation for lost wages and loss of dignity.

The complainant had applied for a position to count trees at a tree nursery but was told the position was for women only. The practice of the nursery appears to have been based on a belief that women had greater dexterity, were more adaptable to repetitious jobs, and paid greater attention to small details. The employer has since implemented a non-discriminatory hiring policy.

Example #3 - Age Discrimination

A Saskatoon man denied employment because of his age received $875 in compensation in a settlement negotiated by the Saskatchewan Human Rights Commission.

The complainant applied for a job with a firm which provided summer employment for students. Although the complainant was a university student, he was 36 years of age, and his hair was greying. He claimed that an offer of a position with the firm was denied when the employer became aware of his age. The employer was of the view that the complainant did not fit the youthful image of a student.

The employer agreed to apologize to the complainant and to pay damages.

Example #4 — Sexual Harassment

The Saskatchewan Human Rights Code has been interpreted to mean that sexual harassment is sex discrimination contrary to *The Saskatchewan Human Rights Code*. Sexual harassment is defined as unwanted verbal or physical sexual advances. The largest category of complaints handled by the Commission are sexual harassment complaints.

In 1986, the Commission settled its first formal sexual harassment complaint filed by a man. Without admitting liability, the alleged harasser paid $600 to the complainant. The respondent was the complainant's male employer.

It was alleged that the respondent persuaded the complainant to stay overnight at the respondent's home, claiming there was work to be done. The same evening the complainant says he was subjected to unwanted sexual advances.

While the great majority of sexual harassment complaints are made by women, the law applies equally to both sexes. Men who are harassed at work by a male or female supervisor or employer can make a complaint under the *Code*. In addition, harassment from co-workers against which management fails to take action, can be the basis of a complaint.

Boards of Inquiry

In the event that the Commission is unable to negotiate a satisfactory agreement between the parties involved in a complaint, the Commission may direct the appointment of a board of inquiry. A board is appointed, at the request of the Commission, by the Attorney General of the province. The purpose of the board is to hear evidence from both parties to determine whether a violation of the *Code* has occurred, and to determine what damages should be awarded in the event a violation is found to have taken place.

Six boards of inquiry were conducted in 1986. Two additional boards were appointed, but these inquiries were not conducted in 1986. In addition, one complaint was awaiting the appointment of a board at the end of the year; three complaints were settled; one inquiry was prohibited by court order; and one complaint was withdrawn by the complainant.

Complaint Awaiting Appointment of Board

One case, the subject matter of which was arbitrary arrest, was awaiting the appointment of a board of inquiry at the end of 1986. However, because of the implications of the *Scowby* v. *Glendenning* case, (see Court Decisions, page 11) it is likely this complaint will not proceed.

Boards Directed — Settlement Reached or Pending

It is possible for parties to a complaint to agree to a settlement any time prior to the holding of an actual inquiry. Settlement has been reached in two cases, and in a third, settlement is pending.

Denial of public services on the basis of physical disability was the subject matter of two of the complainants; sexual harassment was the subject matter of the third.

Boards Directed — Complaint Withdrawn

A complainant may withdraw his or her complaint at any time prior to issuing of the Notice of the Formal Inquiry, and at any time thereafter with the consent of the board of inquiry. In 1986, one complaint was withdrawn after a board of inquiry had been directed.

Boards Directed — Inquiry Prohibited

In the case of *Wahn and Glute* v. *Kodellas and Tripolis Foods Ltd.* an application was made by Kodellas to the Court of Queen's Bench for a writ of certiorari quashing the appointment of a board of inquiry and for an order of prohibition to prevent the Commission from commencing any further proceedings or inquiries into the complaints made by Wahn and Glute. An order of prohibition was granted by the Court of Queen's Bench. (For additional information, see Court Decisions, page 13.)

Boards of Inquiry Appointed / Conducted

1. *Hussey v. Winestock and Merlon Management*

A one-person board was appointed in 1986 to hear the evidence related to a complaint brought forward by Susan Hussey. Evidence presented to the board showed that she had been asked questions about her marital status, dress, decorum, and personal morality during a job interview.

She was asked, among other things, what she would do to get the job and whether she would cheat on her husband. As a result, Hussey withdrew her application.

The board of inquiry found she had been discriminated against because of her sex, and awarded her $750.

Section 19 of *The Saskatchewan Human Rights Code* allows employers to select the best person for the job but prohibits questions or restrictions that would discriminate against the groups protected by *The Code.*

2. *Lorienz v. Daon Construction*

A one-person board dismissed Cheryl Lorienz's complaint that she was refused a job with a construction company because of her sex.

Lorienz was referred to a temporary construction job by the Student Canada Manpower office. She would be required to work in a team with three others to put up large framing trusses. The foreman said he turned Lorienz down because it was his opinion that she would not be able to do the heavy work involved. The finding of the board was that Daon Construction's refusal to hire Lorienz was based on a judgment that she could not perform the work required, and not on her sex.

3. *Chambers v. Saskatchewan Social Services*

On December 8 and 9, 1986, a one-person board of inquiry heard evidence related to a complaint made by Murray Chambers of Saskatoon against Saskatchewan Social Services.

In his complaint, Chambers alleged that the social assistance plan of the provincial government discriminated against him because of his marital status. Under present social assistance regulations, a single recipient receives a basic allowance of $123, plus additional amounts for shelter and utilities. A childless couple receives $356 a month ($178 per person), plus additional amounts for shelter and utilities. The difference in the basic allowance for a single person and a married person is $55, or 44.7 percent.

Section 12 of *The Human Rights Code* prohibits discrimination in the provision of services to the public on the basis of, among other things, marital status.

It is anticipated a decision will be rendered in 1987.

4. *Magnusson v. Winestock and Merlon Management*

In September 1986, a board of inquiry awarded a Saskatoon woman $1,722 in compensation upon finding that she was fired from her job because she was pregnant.

The board found that the woman's former employers, Merlon Management Ltd. and Ron Winestock, had discriminated against her on the basis of sex. Lorraine Magnusson was fired two weeks after she had informed her employer that

she was pregnant. The board noted that Magnusson was capable of performing the duties required by her job, and would have continued to be capable of performing those duties during the course of her pregnancy.

The board also noted that Ron Winestock, owner and manager of the business, was unable to refute the allegation of discrimination. In fact, Winestock testified that one of the conditions for engaging Magnusson was that she was not pregnant and did not intend to become pregnant in the near future.

The Saskatchewan Human Rights Code stipulates that sex discrimination includes discrimination on the basis of pregnancy and pregnancy-related illnesses. This provision recognizes the importance of providing protection for women who become pregnant, which helps to ensure equality for women, particularly in the workplace.

5. *Faith Ratzlaff v. John Dimas and Rocco Pelletieri*

On March 20, 1986, a board of inquiry found that Faith Ratzlaff was subject to sexual harassment during the course of her employment at the Rosthern Inn Steak and Pizza House, and was awarded compensation in the amount of $3,588.

The board found that Ratzlaff had been subjected to unsolicited touching, to uninvited attempts to kiss her, and to verbal sexual harassment by her employers John Dimas and Rocco Pelletieri.

The complainant was forced to quit her job because of the unsolicited sexual harassment, the board also found. The amount awarded in damages was compensation for lost wages and tips and for injury to her feelings and self-esteem.

6. *Michelle Mueller v. Esperado Holdings and Sam Stoikopoulos*

On March 20, 1986, a board of inquiry found that Michelle Mueller was sexually harassed by her employer, Sam Stoikopoulos, when she was working as a waitress at the Bella Vista Motel in Humboldt.

The board accepted the evidence of the complainant, which was that her employer made unsolicited sexual advances, grabbed her and kissed her. After the second incident of harassment, the board noted, Mueller quit her job.

The respondents were ordered to pay to Mueller $781.25 in compensation for lost wages, and $1,500 in damages for injury to her feelings and self-esteem.

Two of the boards appointed in 1986 had not conducted inquiries before the end of the year. It is anticipated these complaints, one alleging discrimination in employment on the basis of physical disability and the other alleging sexual harassment, will be heard in 1987.

Court Decisions

Board of inquiry decisions may be appealed to the courts by any party to a complaint. In 1986 there were several court decisions arising out of boards of inquiry established under *The Saskatchewan Human Rights Code.*

1. *Cpl. V.B. Scowby v. Peter Glendenning* (Supreme Court of Canada)

On October 9, 1986, the Suprement Court of Canada brought down a decision which held that Section 7 of *The Saskatchewan Human Rights Code* is "inoperative in relation to arrest or detention under the criminal law."

Section 7 states that:

> "Every person and every class of persons shall enjoy the right to freedom from arbitrary arrest or detention, and every person who is arrested or detained shall enjoy the right to an immediate judicial determination of the legality of his detention and to notice of the charges on which he is detained."

The Court's decision was based on the premise that it is outside the jurisdiction of the provinces to legislate in the areas of criminal law. Section 450 of the *Criminal Code* also sets out the powers of arrest of police officers and the limits of those powers.

The Supreme Court's decision was the end of a process that began with a complaint to the Human Rights Commission in 1980. That complaint was made as the result of an incident in which R.C.M.P. officers, in the process of arresting a man accused of assaulting a conservation officer, surrounded a hunting cabin occupied by several native men. The occupants of the cabin were forced, in sub-zero weather, to leave the cabin without dressing and lie on the ground for half an hour. In the original complaint it was alleged that a dog accompanying the police officers barked and snapped at the men.

The original complaint also claimed that one of the arresting officers had stepped on the head of one of the men.

The result of the Supreme Court decision is that individuals in Saskatchewan who come into conflict with police who arrest or detain under the authority of a federal statute, will no longer have access to the complaint, investigative and settlement mechanisms provided by the Human Rights Commission. In addition, they will not be able to receive the compensation provided for by *The Saskatchewan Human Rights Code*.

Three of the Supreme Court justices disagreed with the majority of the bench. They said that:

> "The provinces can, consistently with any federal law defining the legality of an arrest, deal with the civil aspects of an unlawful arrest conducted by police officers, whether the arrest purports to be in relation to an alleged breach of the *Criminal Code* or provincial law. The criminal law is in no way interfered with by these provisions of *The Saskatchewan Human Rights Code.*"

At the time of this decision the Commission was in the process of investigating seven complaints of arbitrary arrest. All of these complaints have been withdraw by the Commission.

The Commission will continue to receive and investigate complaints of arbitrary arrest or detention that arise as the result of arrests made under provincial statutes. It will also investigate complaints of discrimination in the provision of police services, for example, allegations of racist behaviour by police officers, under Section 12 of the *Code.*

2. *Hoffer v. Havemann et al and Saskatchewan Human Rights Commission, the Engineering Students' Society et al.* (Court of Queen's Bench)

The Court of Queen's Bench handed down its decision on the *Red Eye* complaint on June 20, 1986, quashing the decision and the order that had been made by a board of inquiry in 1984.

The board of inquiry had held that Hoffer and the Engineering Students' Society violated *The Saskatchewan Human Rights Code* when they published two issues of the student newspaper, named the *Red Eye,* which contained material degrading to women.

The three-person board of inquiry had found that the Red Eye contained material "which perpetuates a social climate which is discriminatory to women. Women are already targets of manifold discrimination and horrible violence. No social interest is served by tolerating the free expression of such material."

That decision was appealed by the Engineering Students' Society to the Court of Queen's Bench, which found in their favour. Mr. Justice Milliken overturned the board of inquiry on four grounds.

First, he found that Section 14(1) of the *Code* as it related to this complaint fell outside of the jurisdiction of the provincial legislature. He found that hate literature and group defamation were matters of criminal law which is under federal jurisdiction. Therefore, he found the provincial *Code* could not apply.

Second, the Court found that Section 14 of the *Code* does not use the term "articles". Therefore, the board erred by failing to determine if the material complained of fell within the wording of this Section. Section 14 refers to "notices, signs, symbols, emblems or other representations" which degrade or humiliate people because of their sex.

The Court also found that the board erred in finding the Society to be a person under the law because the Engineering Students' Society is an unincorporated body. Generally, only organizations that are incorporated can be held liable for damages. If the Society is not a person under the law it cannot be found liable for actions under the *Code.* In addition, Mr. Justice Milliken's decision states that members of the Engineering Students' Society executive, who are persons and could be held responsible, were not properly notified of the proceedings of the board of inquiry as required by the *Code.* Without proper notification the board of inquiry had not authority to hear the complaint against the executive members named as respondents in the complaint.

The Commission will be appealing this decision to the Saskatchewan Court of Appeal.

3. *Saskatchewan Human Rights Commission v. Citation Investments Ltd. et al* (Court of Queen's Bench)

The Saskatchewan Human Rights Commission has decided to appeal a decision of the Court of Queen's Bench in a case involving complaints against three corporations that were renting apartments in Regina.

In the original decision, a board of inquiry found that the corporations had discriminated on the basis of marital status. They offered lower rents to married tenants than were offered to single tenants. However, the board of inquiry declined to award damages to the single tenants discriminated against even though the losses suffered could be readily determined.

The Commission appealed the decision to the Court of Queen's Bench on the grounds that the *Code* requires a board of inquiry to award damages when it has been determined that the *Code* has been violated.

While the Court of Queen's Bench upheld the finding of discrimination it did not agree that it was necessary to award damages. Because the Commission considers the question of compensation for those whose rights are adversely affected to be fundamental, it has chosen to proceed to the next level of appeal, the Saskatchewan Court of Appeal.

4. *Gus Kodellas and Tripolis Foods Ltd. and The Saskatchewan Human Rights Commission, Barbara Wahn and Elizabeth Glute* (Court of Queen's Bench)

In a judgment handed down December 10, 1986, Mr. Justice McLellan of the Saskatchewan Court of Queen's Bench prohibited the board of inquiry appointed under *The Saskatchewan Human Rights Code* from commencing any further proceedings or inquiries into complaints made by Barbara Wahn and Elizabeth Glute.

The complainants alleged they had been sexually harassed by their employer, and filed complaints with the Human Rights Commission. One of the complaints was filed in 1982, the other in 1983.

Mr. Justice McLellan ruled that the lengthy period of time that had transpired between the filing of the complaints and the establishment of a board of inquiry in 1986, violated the rights of restauranteur Gus Kodellas.

The *Charter of Rights and Freedoms* guarantees that no one can be deprived of the right to "life, liberty and security of the person" except in accordance with the "principles of fundamental justice." Mr. Justice McLellan stated that the length of the delay was sufficient for him to find that an inquiry now would be a denial of Kodellas' rights under the *Charter of Rights and Freedoms.* He said further:

> "The legislature charged the Commission with the responsiblity to see that those rights are upheld. It must provide the Commission with adequate funding to enable it to carry out its responsibilities."

Public and Special Programs

The Public and Special Programs Unit of the Commission is responsible for the delivery of education programs, the reviewing of exemption requests and affirmative action programs submitted to the Commission, the administration of accessibility guidelines and communications.

Staff

The staff of this unit consists of a manager of Public and Special Programs, two programs officers and a communications officer. In late 1986 the Commission combined the positions of education officer and affirmative action officer to create the position of programs officer. Programs officers are responsible for the range of activities carried out by the Public and Special Programs Unit, except for communications, which remains the responsibility of a communications officer.

Education

Mandate

It is the responsibility of the Saskatchewan Human Rights Commission to further equality and the recognition of human rights through research and education programs. Under Section 25 of the *Code* the Commission has a duty to:

(a) Forward the principle that every person is free and equal in dignity and rights without regard to his race, creed, religion, colour, sex, marital status, physical disability, age, nationality, ancestry or place of origin;
(b) Promote an understanding and acceptance of, and compliance with, this Act;
(c) Develop and conduct educational programs designed to eliminate discriminatory practices related to race, creed, religion, colour, sex, marital status, physical disability, age, nationality, ancestry or place of origin;
(d) Disseminate information and promote understanding of the legal rights of residents of the province and conduct educational programs in that respect;
(e) Further the principle of equality of opportunities for persons, and equality in the

exercise of the legal rights of persons regardless of their status;

(f) Conduct and encourage research by persons and associations actively engaged in the field of promoting human rights;

(g) Forward the principle of cultural diversities as a basic human right and fundamental human value.

In fulfilling its education role, the Commission attempts to keep the public and affected groups informed of new developments in all areas.

The Commission's educational activities, therefore, provide information on new developments in human rights, including legal provisions, law enforcement procedures, board of inquiry decisions in Saskatchewan and other jurisdictions, special programs, exemptions, accessibility, and many other issues. This information is disseminated through speaking engagements and meetings, conferences, workshops, media contacts, printed material and newsletters.

Education Activities in 1986

The promotion of Education Equity, the Commission's report on Indian/Native education, was the focus of educational activities carried out by staff in 1986. In addition, a number of workshops on other human rights issues were provided.

In addition to educational workshops, staff participated in a number of other activities. Of particular interest were conferences related to the work of the Commission. Three conferences which dealt with education equity or affirmative action are worth highlighting.

A conference organized in May, 1986 by native organizations based in Regina included a session and discussion on the subject of *Education Equity.* The conference itself focussed on the concerns of Saskatchewan's native people with the quality of education being received by their children.

Later in May of 1986 staff attended a national conference on Indian/Native education held in Winnipeg. At the conference Indian persons and organizations discussed education and native control of education. More than two hundred copies of the Commission's report, *Education Equity,* were disseminated to participants.

In September a number of staff members attended a provincial conference on affirmative action organized by the Saskatchewan Federation of Labour. Discussions centered on the theory and practice of affirmative action and the role of trade unions in promoting and developing affirmative action programs.

Commission staff participated in the organization of other events intended to provide the public with information on human rights and *The Saskatchewan Human Rights Code.* For example, December 10th is International Human Rights Day. On that day the Commission sponsored a speech by a prominent expert on human rights. Staff participated in the organization of other events including a film series and panel discussion on human rights abuses around the world.

In 1986 the Commission produced, through the services of a native-controlled production company, a 30-minute video which illustrates, by the use of role-playing, the purpose of the provincial *Human Rights Code.* That video is available for use by Commission staff as well as by community groups.

Three newsletters were produced in 1986. Two were regular newsletters which are mailed to thousands of individuals and organizations both within and outside of the province. The third newsletter dealt with Section 15 of the *Charter of Rights and Freedoms.* It was distributed to schools across the province.

In 1986 the Commission adopted a new logo. That logo, which is portrayed on the cover of this report, is designed to be readily identifiable as representative of the Saskatchewan Human Rights Commission.

The education role of the Commission also means responding to hundreds of inquiries received by telephone, mail and from walk-ins, for specific information on the *Code* or other human rights issues. Thousands of pamphlets explaining the *Code* and the role of the Commission are provided to members of the public each year.

List of Exemptions

Section 48 of *The Saskatchewan Human Rights Code* allows the Commission or the Director to grant exemptions from any provision of the *Code* "where any person or class of persons is entitled to an exemption....under any provision of this Act" or "where the Commission....considers (an exemption) necessary and advisable.

The *Code* and *Regulations* pursuant to the *Code* outline procedures for applying for an exemption and for the convenor of a public hearing to determine whether the exemption should be granted.

In 1986 the Commission considered 18 exemption applications. Thirteen of those applications were granted, one was dismissed, one was withdrawn, two were on hold pending the receipt of additional information from applicants and one was under consideration by the Commission at the end of 1986.

In 1986 exemptions were granted from Section 11 (rental of property), Section 12 (public services), Section 16 (employment) and Section 19 (pre-employment advertisements, job applications and job interviews) of *The Saskatchewan Human Rights Code.*

APPLICANT/DESCRIPTION OF APPLICATION	DATE REQUESTED	STATUS/APPROVAL DATE (CLASSES COVERED BY EXEMPTION)
1. SASKATCHEWAN ADVANCED EDUCATION AND MANPOWER SPECIAL INCENTIVE PROGRAM The Special Incentive Program is designed to provide financial assistance to post-secondary students of Indian ancestry and students with physical disabilities. Hearings on application held October, 1985.	September 17, 1985	January 21, 1986 Exemption from Sections 12 and 13 of the *Code* (Race, physical disability)
2. VICTORIA UNION HOSPITAL, PRINCE ALBERT An application to restrict nine psychiatric attendant positions to male applicants to establish a male/female ratio at Psychiatric Centre, Department of Health, Prince Albert. Public hearings in October, 1985.	April 24, 1985	Application dismissed because of insufficiency of evidence for its support.
3. LLOYDMINSTER METIS HOUSING GROUP INC. Applicant is non-profit housing Corporation concerned with the lack of housing available to native people.	November 13, 1985	March 4, 1986 Exemption from Section 11 of Code (Race)
4. BATTLEFORDS URBAN NATIVE HOUSING CORPORATION Applicant is non-profit housing corporation concerned with the lack of housing available to native people.	November 13, 1985	February 28, 1986 Exemption from Section 11 of *Code* (Race)
5. NAMERIND HOUSING CORPORATION Applicant is non-profit housing corporation concerned with lack of housing available to native people.	November 15, 1985	Awaiting further information from applicant
6. GABRIEL HOUSING CORPORATION Applicant is non-profit housing corporation concerned with the lack of housing available to native people.	November 12, 1985	Awaiting further information from applicant
7. SASKATCHEWAN TRADESWOMEN INC. The creation of a bursary fund that would be available to women pursuing non-traditional female occupations in the trades and technology area.	December 11, 1985	February 27, 1986 Exemption from Section 12 of *Code* (Sex)
8. PRINCE ALBERT MOBILE CRISIS UNIT CO-OPERATIVE LTD. Restricting the position of Sexual Assault Worker to female persons. Most sexual assault victims are female assaulted by males.	November 15, 1985	January 16, 1986 Exemption from Sections 16 and *Code* (Sex)

9. MEADOW LAKE NATIVE URBAN HOUSING CORPORATION Housing program designed to serve needs of Metis, Status and non-status native people. Rental of housing units under this program would be restricted to people of native ancestry.	November 20, 1985	April 4, 1986 Exemption from Section 11 of *Code* (Race)
10. SASKATCHEWAN EMPLOYMENT DEVELOPMENT AGENCY For a program, Career Options, designed to respond to the high unemployment rate of youth. Request to restrict program to persons between the ages of 16 to 24.	December 12, 1986	January 21, 1986 Exemption from Sections 12, 16 and 19 of *Code* (Age)
11. DENNIS WILLIAMS Request exemption from Section 19 to permit applicant to advertise for vocalist specifying sex of singer	January 15, 1986	January 22, 1986 Exemption from Sections 16 and 19 of *Code* (Sex)
12. YOUTH ENTREPENEUR PROGRAM SASKATCHEWAN ECONOMIC DEVELOPMENT CORPORATION Restrict interest free loans provided under Youth Entrepeneur program to persons 25 and under.	December 10, 1986	February 28, 1986 Exemption from Section 12 of *Code* (Age)
13. COLLEGE OF NURSING, UNIVERSITY OF SASKATCHEWAN Indigenous People's Access Program to Nursing wished to restrict applicants to persons of Native ancestry. Program assists students in development of skills and understanding of nursing in preparation for nursing college.	January 21, 1986	February 28, 1986 Exemption from Sections 12 and 13 of *Code* (Race)
14. THE CANADIAN RED CROSS SOCIETY Establishment of differential fee system for *Fun and Fitness* so that persons over 55 could be charged a rate lower than those under 55.	February 5, 1986	April 10, 1986 Exemption from Section 12 of *Code* (Age)
15. SENIOR HERITAGE PROGRAM GOVERNMENT OF SASKATCHEWAN A program to provide financial grants to senior citizens. Request exemption that permits restriction of grant to persons 65 or over and provides for payment of larger individual grants to single as opposed to married persons.	March 3, 1986	March 7, 1986 Exemption from Section 12. (Age, Marital Status)
16. KATIP AIM SOOT CHIC MEDIA PRODUCTIONS LTD. Production of video portraying disadvantages experienced by women, persons with physical disability and people of native ancestry. Exemption to allow company to advertise and restrict hiring for certain acting positions to members of the three target groups.	March 14, 1986	May 6, 1986 Exemption from Sections 16 and 19 of *Code*. (Race, physical disability and sex)
17. WEYERHAUSER CANADA LTD. PRINCE ALBERT PULP AND PAPER Request to restrict participation in apprenticeship program to persons under the age of 50.	May 28, 1986	Withdrawn
18. BERGMAN'S PRIVATE HOME CARE Request for exemption to restrict positions in nursing to female persons.	September 24, 1986	Under Consideration

Special Programs — Affirmative Action

Affirmative Action programs address the disadvantages experienced by persons of Indian ancestry, persons with physical disabilities and women, by consciously measuring representation by race, sex and physical disability in order to identify and remove the systemic barriers which may adversely affect these groups, and increase their participation in employment and education. An affirmative action plan represents a commitment to alter the policies, practices and procedures of institutions so as to open the door for members of the target groups. The facts regarding unemployment and under-utilization of members of all three target groups continues to provide disturbing evidence that members of these target groups have historically been disadvantaged and are still affected in today's workplaces and educational institutions.

While these disparities in economic status stem from a complex set of factors, they provide strong evidence of the persistence of systemic discriminatory practice in the workplace and in related institutions. Considered in this context, the purpose of affirmative action initiatives is to eliminate the institutional barriers which excluded these groups and to redress present imbalances in our labour force.

The Saskatchewan Human Rights Code provides four ways in which affirmative action programs can be introduced:

1. The Commission may approve a voluntary program (Section 47);
2. The Commission may order that a program be put into place (Section 47);
3. A board of inquiry may order a program as a remedy where there is evidence of discrimination (Section 31 (7)(a));
4. An affirmative action program may be introduced as settlement of a complaint.

The approval of a program under Section 47 provides the applicant with legal protection for any preferential measures which may be undertaken. With the proclamation of Section 15(2) of *The Canadian Charter of Rights and Freedoms*, on April 17, 1985, additional constitutional protection for affirmative action came into place.

Affirmative Action Activities in 1986

Education Equity, the Commission's initiative on Indian/Native education in Saskatchewan, was the major focus in the area of affirmative action in 1986. For further information, see page 3.

There was also a continuing emphasis on the approval of affirmative action plans for the workplace and for educational institutions. For details, see page 3.

Monitoring Reports

The Saskatchewan Human Rights Commission has the responsibility for monitoring special programs to insure adherence to approved criteria.

In the past three years all programs have been reviewed by way of public hearings. The hearings provide affirmative action sponsors with a forum to discuss their progress in affirmative action. The hearings also provide an opportunity for interested groups and individuals to voice their views and concerns on the progress of individual plans.

On June 26th, the Commission reviewed the plans of educational organizations. Also on June 26th the affirmative action programs of the Co-operators, Saskatchewan Telecommunications, Sask Oil, Saskatchewan Housing Corporation and the Saskatchewan Human Rights Commission were reviewed.

On June 27th, Saskatchewan Government Insurance Corporation, Saskatchewan Computer Utility Corporation and the City of Regina presented their annual reports to the public hearings.

After presentation of the various reports interested parties were given an opportunity to provide their own comments on the progress of the plans.

In its monitoring hearings report for 1986 the Commission focussed on the need for a more effective annual reporting system. Commission staff will be working to implement a monitoring system that will reflect the original provisions of any affirmative action program, the original approval given to such programs by the Commission and all subsequent conditions attached to those programs.

In its annual report the Commission noted that the sponsors of affirmative action programs had experienced "considerable success" in meeting their annual goals. This was in contrast to the hearings held in September 1985, when almost no sponsor organizations had met their goals.

AFFIRMATIVE ACTION PROGRAMS IN SASKATCHEWAN

As of December 31st, 1986

Employment	Approval Date	Number of Employees*
1. Saskatchewan Human Rights Commission	January 16, 1980	25
2. The Co-operators	Comprehensive plan approved August 15, 1985	753
3. Saskatchewan Oil Corporation (Saskoil)	Original approval May 27, 1982. Revised Plan, August 15, 1985	283
4. Saskatchewan Telecommunications	October 29, 1982	4,387
5. City of Regina — Interim Approval	November 24, 1983 (Comprehensive plan reviewed December 18, 1986)	1,643
6. Sask. Government Insurance Corporation	February 16, 1984	1,342
7. Sask. Computer Utility Corporation (SaskComp)	December 19, 1984	167

*According to last monitoring report.

Training and Education	Approval Date
1. Gabriel Dumont Institute of Native Studies and Applied Research, Saskatchewan Urban Native Teacher Education Program (SUNTEP)	August 5, 1980
2. Northern Lights School Division (NORTEP)	September 21, 1981
3. Regina Plains Community College; Pre-Trades Training Program for Women	October 29, 1981
4. Prince Albert Natonum Community College; Pre-Employment Trades Exploration for Women	March 30, 1982
5. Gabriel Dumont Institute of Native Studies and Applied Research; Human Resource Development Training Program, Native Studies Instructors Program, and Native Recreational Technology Program	September 16, 1983
6. Regina Plains Community College; Pre-Technology Program for Women	November 7, 1983
7. Wascana Institute of Applied Arts and Sciences	April 4, 1986

Housing	Approval Date
1. Saskatchewan Housing Corporation	February 5, 1982

Education Equity	Approval Date
1. Saskatoon School Division #13	April 25, 1986
2. Wilkie School Division #59	July 10, 1986
3. Indian Head School Division #19	July 10, 1986

Accessibility Standards

The Saskatchewan Human Rights Code states that physically disabled persons have the right to equal access and cannot be discriminated against in areas such as employment, housing, public accommodation and education. However, physically disabled individuals are often denied their right to equal opportunity and access because of architectural barriers. In order to eliminate these barriers the Commission adopted Accessibility Standards on August 14, 1980. Revised accessibility standards were adopted in July, 1985. These standards serve as a guide for new and renovated buildings.

The Commission will provide copies of its Accessibility Standards Guidelines and staff assistance in their interpretation.

List of Saskatchewan Human Rights Commission Staff

(as of December, 1986)

Karen Bast
Irma Bird
Jan Cadman
Dan Conway
Pat Cook
Pat Danforth
Laurena Daniels
Deborah Fink
Donalda Ford
Guy Herriges
Helen Johnson
Bev MacSorley
Robin McMillan
William Rafoss
Helen Riggs
Karen Ross
René Roy
June Vargo
Theresa Walker
Ailsa Watkinson
Milton Woodard

Employees on Leave (Education, Childcare and Indefinite)

May Barr
Mona Katawne
Genevieve Leslie
Caryl MacKenzie
Yvonne Peters

Table I

Summary of Complaints by Grounds and Category

	Grounds															
	Sex			Race						Ancestry**		Physical Disability				
Category	Sexual Harrass.	Other	Colour	Native Ancestry	Other	Religion*	Nationality/ Citizenship	Marital Status	Age	Native	Other	Access	Other	Other	Total	Percent
Accommodation, Services and Facilities	1	4	3	37	1	2		10	2	3	5	7	16		91	25.0
Notices/Publications		1		1	3										5	1.3
Employment	76	35	6	7	11	4	3	3	20		3		50		218	60.1
Employment Advertisements																
Trade Unions		1													1	.3
Application Forms/Interviews																
Bill of Rights				1										9	10	2.8
Right to Education				4		2	1	1					5		13	3.6
Right to Engage in Occupations					1										1	.3
Property/Housing	3			10	1			3	2				1		20	5.5
Membership in Associations																
Reprisal														1	1	.3
Contracts				1				2							3	.8
Total	80	41	9	61	17	8	4	19	24	3	8	7	72	10	363	
Percent	22.0	11.3	2.5	16.8	4.7	2.2	1.1	5.2	6.6	.8	2.2	1.9	19.9	2.8		100

* Includes "creed"

** Includes "place of origin"

Table II

Disposition of Complaints

Disposition	Number	Percent
Settled	10	2.8
Withdrawn	47	12.9
No Reasonable Grounds	46	12.7
No Probable Cause	10	2.8
Probable Cause Found	9	2.4
Total	122	33.6
Under Investigation	241	66.4
Grand Total	363	100.0

Table III

Disposition of Probable Cause Complaints

Disposition	Number	Percent
Settled	11	22.0
Withdrawn	2	4.0
Dismissed	3	6.0
Board of Inquiry Directed	8	16.0
Dismissed by Commission	0	0
Total	24	48.0
Undisposed	26	52.0
Grand Total	50	100.0

Table IV

Boards of Inquiry

Number, Category and Grounds of Complaints in which Boards of Inquiry Were Directed by the SHRC in 1986

	Grounds			
PART II Category	**Marital Status**	**Sex**	**Physical Disability**	
Employment		4	1	5
Services	1		1	2
Total	1	4	2	7

PART I Bill of Rights	**Arbitrary Arrest** 1		1
Total			8

Table V

Education Statistics

Type of Activity	Number
Speeches	5
Community Consultations	15
Meetings	93
Conferences and Workshops	45
Literature Displays	9
Radio, Television and Newspaper Interviews	108
Total	275

Table VI
Exemptions
December 31, 1986

	Number
Requested — Total	18
Granted	13
Denied	1
Under Consideration at year end	3
Withdrawn	1

List of Human Rights Commission Materials

1. The Saskatchewan Human Rights Code and Regulations

2. Pamphlets and Brochures:
   - Saskatchewan Human Rights Commission — Information Kit
   - Doing What's Right: The Saskatchewan Human Rights Code
   - Getting About: Rights of the Physically Disabled
   - Finding a Home: Landlord and Realtor Responsibilities
   - Rights on the Job: Employer's Guide
   - Application Forms and Interview Guide: A Guideline for Employers and Job Applicants
   - You've Filed a Complaint: Now What Happens?
   - Sexual Harassment
   - Arbitrary Arrest and Detention
   - Towards Equality: A Guide to Special Programs in Saskatchewan

3. Saskatchewan Human Rights Commission Newsletters:
   - Compulsory Retirement: Elements of the Debate
   - Sexual Harassment: Taking a Stand
   - The KKK: An Editorial Statement
   - Making Saskatchewan Accessible
   - The Education System and Human Rights
   - Saskatchewan Human Rights Commission Releases Interpretive Document on Pensions, Employee Benefits and Insurance
   - Sexual Harassment: New Developments and Interpretations
   - Independence for Human Rights Commission: An Idea Whose Time Has Come
   - Canada's Constitution and Charter of Rights and Freedoms
   - Aboriginal Peoples of Canada and the Constitutional Process: The Task Ahead
   - Affirmative Action and Human Rights in the 1980's
   - The 35th Anniversary of the Universal Declaration of Human Rights: A Time to Celebrate
   - Arbitrary Arrest and Detention
   - Indian and Metis Self-Government in Canada
   - Proposed Amendments to Saskatchewan Human Rights Code
   - Affirmative Action: A New Direction For Schools
   - Affirmative Action News No. 1
   - Affirmative Action News No. 2
   - Affirmative Action: Education Equity
   - After the Decade: Women's Rights in Saskatchewan
   - Education Equity Plan Receives Approval

4. "On Rights," Saskatchewan Human Rights Commission Schools Newsletter
   - Volume 1, No. 1 — An Introduction to Human Rights
   - Volume 1, No. 2 — The Canadian Constitution and the Charter of Rights and Freedoms: A History of Civil Liberties in Canada
   - Volume 2, No. 1 — The Canadian Charter of Rights and Freedoms: Section 15: Equality Rights

5. Other Materials:
   - Accessibility Standard
   - A Manual on the Charter of Rights and Freedoms
   - Human Rights and Benefits in the '80's: An Interpretation of the Saskatchewan Human Rights Code as it Applies to Pensions, Employee Benefits and Insurance
   - Steps for Developing an Affirmative Action Program
   - Affirmative Action Legal Provisions
   - *Affirmative Action: A Case Book of Legislation and Affirmative Action Programs in Saskatchewan
   - *TASC Workshop on Sexism
   - *TASC Workshop on Racism
   - *TASC Workshop on Handicapism
   - *Prejudice in Social Studies Textbooks along with supplement
   - *Sex Bias in Primary Readers
   - Saskatchewan Human Rights Commission Affirmative Action Decisions
   - Saskatchewan Human Rights Commission Exemption Orders
   - Saskatchewan Human Rights Commission Equal Pay Decisions
   - Saskatchewan Human Rights Commission Annual Reports 1981, 1982, 1983, 1984 and 1985

- Education Equity:
  A Report on Indian/Native Education in Saskatchewan
- Doing What's Right (Video)

6. Posters

   - *Opportunities are Everyone's Right

List of Other Publications Distributed by the Commission

1. Human Rights — Public Legal Education Association of Saskatchewan Publication

2. Dick and Jane as Victims: Sex Stereotyping in Children's Readers — Women and Words and Images Publication

3. The Canadian Constitution, 1981.

The above publications are available in print or on cassette tape, except those marked with an asterisk (which are available in print only). These publications are available free of charge by contacting the nearest Commission office.